

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

AARON TREMELL HILL, SR.,

PLAINTIFF,

VS

CITY OF MONAHANS et. al;

DEFENDANT (s)

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CAUSE NO. 4:24-cv-00012-DC-DF

NOTICE OF PROPER SERVICE ON THE CITY OF MONAHANS

Plaintiff, pro se litigant, Aaron Hill, and files this Response to Defendant's Response to NOTICE OF PROPER SERVICE on the City of Monahans, and in support thereof, will respectfully show this Court the following:

I.

RELEVANT BACKGROUND

1. On or about March 13, 2024, Plaintiff filed his Original Complaint [see DKT1]. However, on April 4, 2024, Defendant filed its Defendant's Motion to Dismiss for Plaintiff's Failure to State a Claim, Lack of Personal Jurisdiction and Insufficient Process of service [see DKT 4 & 5], and in the Alternative for the Judge report and recommendations [see DKT 13].

2. The request to file Plaintiff's First Amended Original Complaint by leave of court as provided in Exhibit "1" and Exhibit "2" is attached hereto.

3. On or about November 19, 2024, a telephone call was placed to opposing counsel, Mr. Tyler Eyrich, to discuss Plaintiff's intent to seek leave of court to file Plaintiff's First Amended Original Complaint. Mr. Eyrich was left a voice message in reference to Plaintiff's request for leave to amend his lawsuit. The call was never returned.

4. On or about November 20, 2024, Plaintiff filed his Motion for Leave to File First

Amended Original Complaint. *See* (DKT 15). Attached to his Motion, Plaintiff attached his First Amended Complaint (DKT 15-1). On November 26, 2024, Plaintiff filed the Affidavit of Angela Lopez, which is being used to support Plaintiff's claims. *See* (DKT 17).

5. On or about November 27, 2024, the Defendant changed attorneys for the third time. With each change in attorneys, the Defendant's argument seemingly changes. On DKT 19, Defendant responds in opposition to the Plaintiff's Motion to Leave.

6. On December 1, 2024, Plaintiff requests for issuance of summons (DKT 20).

II.

MOTION FOR LEAVE TO AMEND STANDARD

The Judge recommended Plaintiff to file Motion to Leave. By the recommendation from the Judge, Plaintiff has submitted all required documentation. For the record, this is the Plaintiff's First Amended Original Complaint not the third as the defendant's attorney states.

III.

ARGUMENTS & AUTHORITIES

The defendants attorney's assertion that the City of Monahans was not served a summons is untrue. On or about April 22, 2024, Rex M. Thee, City Manager (see DKT 15-2) who is considered the authorized representative to receive legal documents on behalf of the municipality, was served. Per Texas Rules of Civil Procedure (TRCP) a city manager can be served with legal documents on behalf of the city, as a City Manager is considered an authorized agent to receive service of process for the municipality when acting in their official capacity; essentially, serving the city manager is considered serving the city itself. Furthermore, Rule 4 (J2) states the city manager is the Chief Executive Officer (CEO) and he or the city mayor are

authorized to be served on the city's behalf. The City Manager is considered the CEO (Chief Executive Officer) as the City of Monahans operates under a council-manager form of government where the city manager is responsible for the day-to-day administrative operations and is considered the chief executive of the city. Mr. Rex Thee was served on April 22, 2024 @1:15 PM by Jaime Moreno of Texas Crime & Investigators for Texas Process Services. The city secretary Tonya Todd signed for the summons. She is also authorized to sign the summons on his or the city's behalf. Federal Rules of Civil Procedure Rule 4 (j)(2)(a) states "Serving a Foreign, State, or Local Government ... *State or Local Government*. A state, a municipal corporation, or any other state-created governmental organization that is subject to suit must be served by: (A) delivering a copy of the summons and of the complaint to its chief executive officer; or (B) serving a copy of each in the manner prescribed by that state's law for serving a summons or like process on such a defendant." Federal law supersedes state laws when there is a conflict. The supremacy clause of the U.S. Constitution establishes that federal law takes precedence over conflicting state law.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court grant his motion NOTICE OF PROPER SERVICE on the City of Monahans.

Respectfully submitted,

Aaron T. Hill, Sr.

Aaron T, Hill, Sr.
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Corpus Christi, Texas 78418
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E-Mail: aaronhill73@yahoo.com

/s/Aaron T. Hill, Sr.

Aaron T. Hill, Sr.
Pro Se Litigant

CERTIFICATE OF SERVICE

I, Aaron T. Hill Sr., do hereby certify that on December 2, 2024, a true and correct copy of the foregoing Motion for Notice of Proper Service to the City of Monahans was forwarded to

COTTON, BLEDSOE, TIGHE & DAWSON, P.C. A
Professional Corporation
P. O. Box 2776 Midland, Texas 79702

Via E-mail: adorfner@cbtd.com

Via E-mail: teyrich@cbtd.com

Aaron M. Dorfner State Bar No. 24040824

Tyler J. Eyrich State Bar No. 24101741

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ATTORNEY FOR DEFENDANTS

/s/Aaron T. Hill, Sr.

Aaron T. Hill, Sr.
Pro Se Litigant

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Came on to be considered on December 2, 2024, Plaintiff's Motion for NOTICE OF PROPER SERVICE ON THE CITY OF MONAHANS. The Court having reviewed the pleadings herein and the arguments of counsel, finds that the requested leave is meritorious.

THEREFORE, IT IS ORDERED that Plaintiff's Motion for NOTICE OF PROPER SERVICE ON THE CITY OF MONAHANS is GRANTED. Accordingly,

IT IS ALSO ORDERED that Plaintiff shall have ____ days, from the signing of this Order to file Plaintiff's second chance to service the Mayor if he deems the City Manager isn't an authorized person to receive the summons on behalf of the city of Monahans..

Signed on this ____ day of _____, 2024.

UNITED STATES DISTRICT JUDGE